

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RONALD ROBINSON,

Plaintiff,

v.

5:19-CV-406
(MAD/ATB)

JOHN HALLETT, et al.,

Defendants.

RONALD ROBINSON, Plaintiff, pro se

ANDREW T. BAXTER

United States Magistrate Judge

ORDER

On November 20, 2019, I conducted an initial review of plaintiff's amended complaint which was transferred from the Western District of New York. (Dkt. No. 15). In my initial review, I recommended dismissal of defendants Hallett, Martusewicz, Mills, and Shaffer. (*Id.*) The recommendation was based on judicial and prosecutorial immunity (defendants Martusewicz, Mills, and Shaffer) and absence of state action (Hallett). (*Id.* at 7-10, 12-13). I also recommended dismissing various causes of action based upon *Heck v. Humphrey*, 512 U.S. 477 (1994) to the extent that plaintiff was raising claims relating to the validity of a conviction that had not been overturned or invalidated in any way. (*Id.* at 11-12). I recommended dismissal of plaintiff's excessive force claim against defendants Golden and Bickel for failure to state a claim. (*Id.* at 16). I recommended dismissal of plaintiff's conspiracy claims for failure to state a claim. (*Id.* at 13-14).

I then determined that plaintiff's only viable cause of action was against defendants Golden and Bickel for allegedly false arrest. (*Id.* at 16-17). However, I also

recommended that plaintiff be given the opportunity to amend his claims of excessive force if plaintiff could allege that there was some “force” to which he was subjected that was “excessive,” distinguished from his claims of unreasonable search and false imprisonment. (*Id.* at 18).

On March 13, 2020, United States District Court Judge Mae A. D’Agostino approved and adopted my Order and Report-Recommendation in its entirety. (Dkt. No. 17). For detailed discussion of the issues, reference is made to Judge D’Agostino’s Memorandum Decision and Order. (*Id.*) Plaintiff did not object to my recommendation, and requested that his case go forward with the cause of action that was not recommended for dismissal. (Dkt. No. 16). In adopting my recommendations, Judge D’Agostino also afforded the plaintiff thirty days in which to amend his amended complaint with respect to the excessive force claim. (Dkt. No. 17). Plaintiff did not file a proposed second amended complaint. Thus, plaintiff’s amended complaint, as limited by Judge D’Agostino’s decision is the operative pleading herein. (Dkt. No. 13). **The only remaining claim is against defendants Golden and Bickel for false arrest/imprisonment.** The Clerk has now sent this case to me to order service of the amended complaint.

WHEREFORE, it is

ORDERED, that the Clerk shall issue summonses and forward them, along with copies of the amended complaint (Dkt. No. 13), Judge D’Agostino’s Order (Dkt. No. 17), and a packet containing General Order 25, which sets forth the Civil Case Management Plan used by the Northern District of New York to the United States Marshal for service upon defendants **GOLDEN and BICKEL**, and the Clerk shall

forward a copy of the summonses and the amended complaint (Dkt. No. 13) to the Jefferson County Attorney, (175 Arsenal St. Watertown, NY 13601), together with this order and Judge D'Agostino's Order (Dkt. No. 17), and it is

ORDERED, that **the only remaining claim is against defendants Golden and Bickel for false arrest/imprisonment**, and it is

ORDERED that a response to plaintiff's amended complaint as limited herein, be filed by the named defendants or their counsel as provided for in the Federal Rules of Civil Procedure; and it is

ORDERED, that the Clerk is directed to schedule a Rule 16 conference before me, and it is

ORDERED, that all pleadings, motions, and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be stricken from the docket.** Plaintiff must comply with all requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in his address; his**

failure to do so will result in the dismissal of this action; and it is

ORDERED, that the Clerk shall serve a copy of this Order on plaintiff.

Dated: April 22, 2020



Hon. Andrew T. Baxter
U.S. Magistrate Judge